

Application No.: 10/817,259
Amdt dated: July 17, 2008
Reply to Office action of April 18, 2008

REMARKS/ARGUMENTS

This Amendment is filed in response to the Final Office Action that was mailed on April 18, 2008. Claims 14-20 were before the Examiner for consideration. In this paper, no claims have been amended and no claims have been canceled. New Claim 21 has been added. Accordingly, Claims 14-21 are now before the Examiner for consideration. No new matter has been added with this amendment.

Summary of the Office Action

The Examiner rejected Claims 14-20 under 35 U.S.C. § 112 for failing to comply with the written description requirement. For at least the reasons discussed below, Applicant respectfully traverses this rejection.

Regarding the Rejection under 35 U.S.C. § 112

The Office Action indicates that the recitation of "a pad attached to the second planar surface having a first portion extending from the rib distally along the second planar surface and a second portion extending from the outer surface of the housing adjacent to the rib to the first portion of the pad, the second portion of the pad having a width smaller than a width of the first portion of the pad," does not have written description support in the Application. For at least the reasons previously submitted in the document entitled "AMENDMENT" electronically filed on January 2, 2008, and those presented hereinbelow, Applicant respectfully traverses this rejection.

Application No.: 10/817,259
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Applicant respectfully submits that the reasons previously submitted in the document entitled "AMENDMENT" electronically filed on January 2, 2008 detail one basis for written description support of Claim 14. By way of further clarifying the written description support for Claim 14, it is noted that "the disclosure of drawings . . . that show that the invention was complete," can show possession of the claimed invention to satisfy the written description requirement. (M.P.E.P. § 2163 (I)). Furthermore, "Applicant may rely for disclosure upon the specification with original claims *and drawings*, as filed." (M.P.E.P. § 608, emphasis added).

Applicant notes that Figures 5-14 as-filed collectively illustrate all of the claim recitations of Claim 14. Notably, Figures 10-12 illustrate a pad 70 attached to a planar surface of a jaw 65, and a rib 76 or 78 extending out from the second planar surface of the jaw 70. The pad 70 includes a portion extending from the rib 76 or 78 distally along the planar surface, and a second portion extending from the outer surface of the housing adjacent to the rib 76 or 78 to the first portion of the pad, the second portion of the pad having a width smaller than a width of the first portion of the pad. Figure 12 illustrates the smaller width of the second portion of the pad. As discussed in greater detail in the document entitled "AMENDMENT" electronically filed on January 2, 2008, Figures 13 and 14 illustrate a method for manufacturing the clip having a pad as recited in Claim 14. Figures 5-9 illustrate a pad 63 extending along a planar surface of a jaw 63 having a rib 81, various aspects of which are recited in Claims 15-20.

While Applicant believes the drawings as originally filed in the present application provide adequate written description support for Claims 14-20, Applicant has amended

Application No.: 10/817,259
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the Specification in the above section entitled Amendments to the Specification to further clarify the written description support provided in the specification. All of the amendments to the Specification are supported in the drawings as-filed, specifically, Figures 5-14. Accordingly, no new matter has been added with these amendments.

Thus, for at least the reasons described above, Claim 14 is supported in the Application as-filed. While not specifically identified in the Office Action as lacking written description support, Claims 15-20 are likewise supported in the Application as-filed at least in Figures 5-14. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. § 112.

New Claim

Claim 21 has been added herein. Claim 21 depends from Claim 14 and recites additional novel and nonobvious limitations thereon. Claim 21 is supported in the specification as filed and in Claims 1 and 2 as filed. Accordingly, no new matter has been added with this amendment.

Conclusion

For at least the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowability is most earnestly solicited.

Applicant respectfully traverses each of the Examiner's rejections. Although


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amendments have been made, no acquiescence or estoppel is or should be implied thereby. Any arguments in support of patentability and based on a portion of a claim should not be taken as founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, John F. Heal, at (949) 713-8283 to resolve such issues promptly.

Sincerely

APPLIED MEDICAL RESOURCES

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